

BEFORE THE  
Federal Communications Commission  
WASHINGTON, D.C.

In the Matter of	)	MM Docket No. 94-82
	)	RM-8487
Amendment of Section 73.202(b),	)	
Table of Allotments,	)	
FM Broadcast Stations	)	
(Spencer and Sac City, Iowa,	)	
St. James, Minnesota)	)	

To: Chief, Mass Media Bureau

COMMENT

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

Kevin Lein ("Lein"), by his counsel, herewith comments on the Notice of Proposed Rule Making and Order to Show Cause, MM Docket No. 94-82 (released July 20, 1994) ("NPRM"). As set forth below, as Lein has filed an application for the Sac City channel and intends to construct a station there, the Commission should not delete Channel 284A as suggested in the NPRM.

I. BACKGROUND

1. On May 27, 1994, Iowa Great Lakes Broadcasting Company, Inc. ("Great Lakes") filed a petition for rule making requesting the upgrade of Station KIGL(FM) from Channel 285C2 to Channel 285A at Spencer, Iowa. In order to accommodate the allotment, Great Lakes requested the substitution of Channel 268A for Channel 285A at St. James, Minnesota, and the modification of Station KXAX's license to specify operation on the substituted channel. Finally, Great Lakes requested the deletion of the presently unoccupied Channel 284A at Sac City, Iowa.

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2. On July 20, 1994, the Commission issued the above-referenced NPRM seeking comment on the proposed amendment of the FM Table of Allotments to read as follows:

City	<u>Present</u>	<u>Proposed</u>
Spencer, Iowa	285A, 299C1	285C2, 299C1
St. James, Minnesota	263C2, 285A	263C2, 268A
Sac City, Iowa	284A	--

II. CHANNEL 284A, SAC CITY, IOWA SHOULD NOT BE DELETED

3. At the time Great Lakes filed its petition for rule making, there were no pending applications for Channel 284A, Sac City, Iowa. However, on August 1, 1994, Lein filed an FCC Form 301 application for a new FM station on Channel 284A at Sac City.

4. It is the long-standing policy of the Commission not to delete a channel in which interest has been expressed absent a compelling showing. Report and Order, Amendment of Section 73.606(b), Table of Allotments, Television Broadcast Stations, Montrose and Scranton, Pennsylvania, MM Docket No 87-309, 3 FCC Rcd 1061, 1062 (released March 7, 1988) (denying a petition for rule making to reallocate a vacant UHF TV channel where two applications for the channel had been filed); Notice of Proposed Rule Making, Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations, Belen and Grants, New Mexico, MM Docket No. 91-338, 6 FCC Rcd 6606 (released November 14, 1991) (stating that where interest is shown in a vacant FM channel, the channel will not be deleted absent a compelling showing). No compelling reason has been demonstrated why Channel 284A should be

deleted.<sup>1/</sup> It is immaterial that Lein's 301 application for Channel 284A was filed only after Great Lakes filed its petition for rule making. See Report and Order, Amendment of 73.606(b), Table of Assignments, Television Broadcast Stations, La Salle and Pontiac, Illinois, BC Docket No. 82-351, 53 RR 2d 392, 394 (released January 31, 1983). Therefore, as there is presently pending an application for the channel by a party intending to construct a station to serve the community, the Commission must deny Great Lakes' petition for rule making insofar as it requests the deletion of Channel 284A at Sac City.

### III. CONCLUSION

WHEREFORE, the premises considered, Lein requests the Commission to deny Great Lakes' petition for rule making.

Respectfully submitted,

**KEVIN LEIN**

By: 

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<sup>1/</sup>Channel 284A will provide a first local service to Sac City, while Channel 285C2 will only result in an improvement of existing service. Thus, under the Commission's allocations priorities, the Sac City allotment is preferred.

CERTIFICATE OF SERVICE

I, Penny Jackson, do hereby certify that I have this 12th day of September, 1994, mailed by first-class United States mail, postage prepaid, copies of the foregoing "**COMMENT**" to the following:

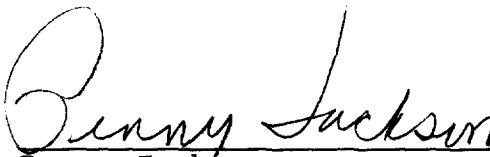
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